

AMENDED IN SENATE JUNE 1, 2010
AMENDED IN SENATE APRIL 13, 2010
AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1205

Introduced by Senator Corbett
(Coauthors: Senators DeSaulnier and Hancock)

February 18, 2010

An act to add and repeal Title 7.26 (commencing with Section 66720) of the Government Code, relating to disaster recovery.

LEGISLATIVE COUNSEL'S DIGEST

SB 1205, as amended, Corbett. ~~The San Francisco Bay Area Disaster Recovery Authority~~ *Planning Council Act*.

Existing law authorizes 2 or more public agencies, by agreement, to jointly exercise common powers. Existing law also establishes the San Francisco Bay Restoration Authority to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in the San Francisco Bay.

This bill would establish, *until January 1, 2030*, the ~~San Francisco Bay Area Disaster Recovery Authority~~ *Planning Council* to create a long-term regional recovery plan, to be implemented before and after an earthquake or other disaster occurs in the bay area, by cooperating with various stakeholders in the bay area, including, but not limited to, the cities, counties, special districts, ~~schools~~ *school districts*, emergency ~~operators~~ *managers*, hospitals, members of the public, private businesses, and nongovernmental organizations.

The bill would impose specific duties on the Association of Bay Area Governments, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Title 7.26 (commencing with Section 66720) is added to the Government Code, to read:

TITLE 7.26. ~~SAN FRANCISCO BAY AREA DISASTER~~
RECOVERY AUTHORITY *PLANNING COUNCIL*

CHAPTER 1. FINDINGS AND DECLARATIONS

66720. This title shall be known and may be cited as the Bay Area Disaster Recovery ~~Authority~~ *Planning Council Act*.

66721. The Legislature hereby finds and declares all of the following:

(a) The San Francisco Bay area will experience a major ~~manmade or natural disaster such as an earthquake in its future.~~
earthquake in its future.

(b) Disasters not properly managed and planned for can easily escalate into catastrophies that will have major lasting consequences on the region.

(c) The nine counties surrounding the San Francisco Bay constitute a region of vital importance to the national economy and future business innovation. The bay area leads the nation in innovation, research, and new technology.

(d) The bay area is crisscrossed by many active faults. Several of these faults, including the San Andreas and Hayward faults, are capable of causing a major disaster in the region. The United States Geological Survey predicts that there is a 67 percent chance that a major earthquake will strike the bay area in the next 30 years. The Hayward fault, which runs through the ~~dense~~ *densely populated* urban cities of Fremont, Oakland, and Berkeley, experiences a major earthquake approximately every 140 years.

1 The last earthquake on this fault was in 1868, making the Hayward
2 fault the most dangerous in the bay area today.

3 (e) While the bay area has appropriately focused on risk
4 mitigation strategies and emergency response preparation, there
5 has been little attention given to the lengthy post-90 day, long-term
6 recovery period that will follow a major disaster such as an
7 earthquake. This is the period that will make or break the region's
8 economic future.

9 (f) The bay area is making great strides to reduce the impacts
10 of a major earthquake, but the scale of the problem is huge and
11 critical components of the system are still vulnerable. A great
12 amount of work still needs to be done to prepare the region.
13 Transportation, water, and housing are key systems that must be
14 robust in order to facilitate a speedy recovery for the region.

15 (g) Recent disasters have repeatedly shown that the weeks and
16 months following a disaster require that all city and county
17 departments, special jurisdictions, ~~and~~ the state and federal
18 government, *and the private sector* work together toward disaster
19 recovery. ~~Similarly, while hazard mitigation is essential to~~
20 ~~minimize the damage of disasters to communities, having a~~
21 ~~comprehensive plan for the long-term process of recovery is often~~
22 ~~overlooked and is the key to preventing disasters from becoming~~
23 ~~catastrophes.~~

24 (h) Past disasters clearly show the consequences of not ~~preparing~~
25 *planning* for recovery. In 2010, the San Francisco Bay Bridge
26 *seismic retrofit* has still not been ~~replaced~~ *completed* despite the
27 known hazard since the 1989 Loma Prieta earthquake, and the City
28 of Atascadero is just beginning to replace its city hall that was
29 damaged in the 2003 San Simeon earthquake ~~because of difficulty~~
30 ~~it has faced with the Federal Emergency Management Agency~~
31 ~~process.~~ New Orleans is still struggling to rebuild its communities
32 more than five years after Hurricane Katrina. In Kobe, Japan,
33 where a massive earthquake devastated the region in 1995,
34 thousands of people still live in temporary housing nearly 15 years
35 after the earthquake.

36 (i) ~~Disasters such as earthquakes~~ *Earthquakes* will affect the
37 entire region, not just individual cities and counties. The regional
38 nature of an earthquake demands a regional long-term recovery
39 strategy, but few models exist from other regions.

(j) With 101 cities, nine counties, and more than 400 special districts, the bay area is poorly structured to undertake the regional-scale challenge of the long-term recovery phase. However, with advance planning and organization, the bay area can be prepared *plan* for long-term recovery. This ~~would~~ *will* entail having an understanding of the issues that will confront the region, the goals pursued, and the decisionmaking protocols that it will follow.

~~(k) When the San Francisco Bay area experiences a major disaster such as an earthquake in the future, government agencies will immediately activate emergency response plans and scramble to restore order, alleviate human suffering, and protect property. In the days after a disaster, short-term recovery plans will be implemented to set up shelter locations, remove debris, and tag buildings. But what happens later, in the weeks, months, and years after immediate life and safety needs have been addressed, will determine whether the region recovers and persists as a vibrant community and driver of the nation's prosperity, or whether the disaster escalates into a catastrophe and the region suffers long-term depopulation with businesses and residents permanently relocating to more stable communities.~~

(k) Adequate planning for the weeks, months, and years after immediate life and safety needs have been addressed will determine whether the region recovers and persists as a vibrant community and driver of the nation's prosperity, or whether the region suffers long-term depopulation with businesses and residents permanently relocating to more stable communities.

(l) A major earthquake on the Hayward fault, for example, is predicted to leave 156,000 housing units uninhabitable and 356,600 people displaced. In contrast to Hurricane Katrina, where 40 percent of homeowners were insured, less than 10 percent of bay area homeowners have earthquake insurance. Because of high deductibles, it is anticipated that only 4.4 percent of losses will be covered by insurance. The likelihood that these homeowners will have the resources to rebuild their homes in a timely manner is low and rebuilding will depend on the ability of homeowners to attract private investment to their properties. At a time when rental vacancy rates are already very low and homeowners are struggling to hold on to their properties, there is little incentive or ability for uninsured homeowners to invest in the rebuilding of their properties.

~~(m) Retrofitting homes is an effective method to reducing housing losses in a disaster, but relatively few homes have been retrofitted and programs and funds to encourage more widespread retrofit are scarce. Recovery of the business economy depends on~~

(m) Recovery of the business economy depends on the ability of workers to return to work, and workers without homes are unlikely to be able to do so.

~~(n) A regional long-term recovery plan cannot simply be an operations plan for governments to follow. All stakeholders, from local governments, lifelines operators, schools, private-sector businesses, members of the public, the health and hospital community, and nongovernmental organizations, must reach~~

(n) A regional long-term recovery plan must involve all stakeholders from local governments, emergency managers, lifeline operators, schools, private sector businesses, members of the public, the health and hospital community, and nongovernmental organizations. These stakeholders must reach consensus on the priorities for long-term disaster recovery, including serving vulnerable communities that may have the least access to resources, are more reliant upon government services, and most susceptible to the impacts of delays in government action post-disaster. after a disaster.

~~(o) Key functional areas of recovery that must be understood include lifelines, lifeline interdependency, long-term housing replacement, business recovery, government facilities and services, transportation, health and education, vulnerable communities, and land use change.~~

~~(p) Public-private partnerships are key to this process. Private businesses must be confident that recovery will happen quickly in order to continue to invest in the region. The planning process must address their needs and concerns. The roles of private business in the long-term recovery plan will be identified together with local governments.~~

~~(q) The Association of Bay Area Governments (ABAG) is a unique regional entity, well suited to lead this effort. The ABAG was formed as a Council of Governments by the 101 cities and nine counties of the bay area to address social, environmental, and economic issues that transcend local borders. The mission of the ABAG is to facilitate and strengthen cooperation and coordination among local governments.~~

1 ~~(r) ABAG has a long history of planning for disasters and has~~
2 ~~been a national leader among planning agencies in developing and~~
3 ~~continuing an earthquake and hazards planning program. In the~~
4 ~~past this program has coordinated with all of its member cities and~~
5 ~~counties, as well as special districts to develop a Federal~~
6 ~~Emergency Management Agency approved multijurisdiction local~~
7 ~~hazard mitigation plan with regional mitigation strategies agreed~~
8 ~~upon by all the participating jurisdictions.~~

9 ~~(s)~~

10 ~~(r) The San Francisco Bay area needs to develop regional~~
11 ~~mechanisms to generate and allocate additional resources to address~~
12 ~~*mechanisms to address* threats of natural hazards and to secure~~
13 ~~opportunities for the improvement of the long-term disaster~~
14 ~~recovery capacity of the San Francisco Bay area, which will~~
15 ~~promote sustainable redevelopment and create a more~~
16 ~~disaster-resistant region.~~

17 ~~(t) It is in the public interest to create the San Francisco Bay~~
18 ~~Area Disaster Recovery Authority as a regional entity to generate~~
19 ~~and allocate resources for development of long-term disaster~~
20 ~~recovery plans, protocols, and mitigation projects for the San~~
21 ~~Francisco Bay area. The authority will endeavor to provide its~~

22 ~~(s) It is in the public interest to create the Bay Area Disaster~~
23 ~~Recovery Planning Council as a regional entity to facilitate~~
24 ~~*long-term disaster recovery planning for the bay area. The council*~~
25 ~~*will endeavor to provide its* members with shared knowledge and~~
26 ~~familiarity of the issues necessary to tackle critical tasks of~~
27 ~~prioritizing recovery activities, sharing resources, and interfacing~~
28 ~~with a vast array of local entities and stakeholders as well as state~~
29 ~~and federal agencies. The ~~authority~~ *council* will sponsor and review~~
30 ~~local actions to improve preparation for *long-term* recovery,~~
31 ~~including guidelines for member cities, counties, and agencies to~~
32 ~~align finance department preparation, building ordinances,~~
33 ~~emergency housing strategies, ~~mutual aid~~, *nonemergency response*~~
34 ~~*mutual aid agreements*, and a variety of additional tasks, along~~
35 ~~with information gathering, plan consolidation, application for~~
36 ~~resources, and policy discussion.~~

CHAPTER 2. DEFINITIONS

66722. Unless the context otherwise requires, the following definitions govern the construction of this title:

(a) “ABAG” means the Association of Bay Area Governments.

(b) “Administrative committee” means the Bay Area Disaster Recovery *Planning* Administrative Committee convened by the governing board of the San Francisco Bay Area Disaster Recovery Authority *board of the Bay Area Disaster Recovery Planning Council* pursuant to Section 66724.5.

(c) “Authority” means the San Francisco Bay Area Disaster Recovery Authority established as a regional entity pursuant to Section 66723.

(d) “Board” means the governing board of the San Francisco Bay Area Disaster Recovery Authority.

(e) “Member” means a person appointed as a member of the governing board of the San Francisco Bay Area Disaster Recovery Authority.

(f) “Board” means the governing board of the council.

(g) “Council” means the Bay Area Disaster Recovery Planning Council established pursuant to Section 66723.

(h) “Member” means a person appointed as a member of the board.

(i) “San Francisco Bay area” or “bay area” means the area that includes the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

(j) “Technical advisory committee” means the Bay Area Disaster Recovery Planning Technical Advisory Committee convened by the board pursuant to Section 66724.6.

CHAPTER 3. ~~SAN FRANCISCO~~ BAY AREA DISASTER RECOVERY
AUTHORITY PLANNING COUNCIL

66723. (a) The ~~San Francisco~~ Bay Area Disaster Recovery Authority *Planning Council* is hereby established as a regional entity with jurisdiction extending throughout the San Francisco Bay area.

(b) The authority shall create a long-term regional recovery plan, to be implemented before and after an earthquake or other disaster occurs in the bay area, by cooperating with various

1 stakeholders in the bay area, including, but not limited to, the cities,
2 counties, special districts, school districts, emergency operators,
3 hospitals, members of the public, private business, and
4 nongovernmental organizations.

5 (b) The council shall create a long-term regional recovery plan
6 by cooperating with various stakeholders in the bay area,
7 including, but not limited to, the cities, counties, special districts,
8 school districts, emergency managers, hospitals, members of the
9 public, private business, and nongovernmental organizations.

10 (c) The scope and purpose of the recovery plan shall be for
11 planning for the region's resiliency following a disaster by
12 increasing the speed of rebuilding lifeline infrastructure, including,
13 but not limited to, water, and energy pipelines, planning for
14 temporary transportation and transit programs during the repair
15 of the transportation system, enhancing government management
16 capacity for large scale capital projects programs, planning for
17 the reconstruction of housing supply damaged by the disaster;
18 creating mechanisms to assist businesses with temporary relocation
19 and financing, and other issues associated with sustainable
20 redevelopment following a major disaster. In planning for the
21 purposes contained within this section, the council shall consult
22 with emergency managers and other local government staff
23 involved in disaster recovery to ensure that the plan incorporates
24 local planning efforts and is not duplicative of work already being
25 done in the region. The recovery plan shall not be a postdisaster
26 operations plan.

27 (d) Nothing in this title shall be deemed to confer upon the
28 council any land use, regulatory, or permitting authority. The
29 power of the council is limited to planning.

30 (e)

31 (e) The jurisdiction of the ~~authority~~ council is not subject to the
32 Cortese-Knox-Hertzberg Local Government Reorganization Act
33 of 2000 (Division 3 (commencing with Section 56000) of Title 5).

34 66723.5. It is the intent of the Legislature that the ~~authority~~
35 council complement existing efforts by cities, counties, districts,
36 and other local, regional, and state entities, related to addressing
37 the goals described in this title.

CHAPTER 4. GOVERNING BODY

66724. (a) ~~The authority council~~ shall be governed by ~~a the~~ board composed of voting members, as follows:

(1) All members of the ABAG Regional Planning Committee.

(2) ~~ABAG~~ ~~The ABAG Executive Board~~ shall appoint one member representing each of the following:

(A) Not less than four members representing lifeline infrastructure districts such as water and wastewater, power and energy, telecommunications, and transit.

~~(B) A school district or county board of education.~~

~~(B) A school board member or member of a county board of education.~~

(C) A nonprofit service delivery agency.

(D) A member of the Bay Area ~~Super-Urban~~ Urban Area Security Initiative.

(E) Not less than four members representing private sector business, economics, and planning organizations.

~~(F) A county or city emergency manager.~~

(b) Each member shall serve at the pleasure of ~~the ABAG the~~ ~~ABAG Executive Board~~.

(c) A vacancy shall be filled by ~~ABAG the ABAG Executive Board~~ within 90 days from the date on which the vacancy occurs.

66724.1. The members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

66724.2. Each member shall exercise his or her independent judgment on behalf of the interests of the residents, the property owners, and the public as a whole in furthering the intent and purposes of this title.

66724.3. The board shall elect from its own members a chair and a vice chair who shall preside in the absence of the chair.

66724.4. (a) The time and place of the first meeting of the board shall be at a time and place within the San Francisco Bay area fixed by ~~the chair of the board~~ ~~ABAG President~~.

(b) After the first meeting described in subdivision (a), the board shall hold meetings at times and places determined by the board.

(c) Meetings of the board are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

1 66724.5. (a) Not later than six months after the date of the
2 board's first meeting described in subdivision (a) of Section
3 66723.4, the board shall convene a Bay Area Disaster Recovery
4 *Planning* Administrative Committee to assist and advise the board
5 in carrying out the functions of the board. The administrative
6 committee shall meet on a regular basis.

7 (b) The membership of the administrative committee shall be
8 determined by the ~~authority~~ *council* based upon criteria that provide
9 a broad representation of community and agency interests and
10 geographical diversity within the ~~authority's~~ *council's* jurisdiction
11 over the long-term disaster recovery in the San Francisco Bay area.
12 The membership of the administrative committee shall be appointed
13 by the ~~authority~~ *council*.

14 66724.6. (a) *Not later than six months after the date of the*
15 *board's first meeting described in subdivision (a) of Section*
16 *66723.4, the board shall convene a Bay Area Disaster Recovery*
17 *Planning Technical Advisory Committee to be composed of local*
18 *emergency managers, city and regional planners, engineers, and*
19 *members of other technical fields, as necessary. The technical*
20 *advisory committee shall meet on a regular basis.*

21 (b) *The membership of the technical advisory committee shall*
22 *be determined by the council based upon criteria that provide a*
23 *broad representation of community and agency interests and*
24 *geographical diversity within the council's jurisdiction over the*
25 *long-term disaster recovery in the San Francisco Bay area. The*
26 *membership of the technical advisory committee shall be appointed*
27 *by the council.*

28 ~~66724.6.~~

29 66724.7. (a) The board is the legislative body of the ~~authority~~
30 *council* and, consistent with this title, shall establish policies for
31 the operation of the ~~authority~~ *council*.

32 (b) The board may act either by ordinance or resolution in order
33 to regulate the ~~authority~~ *council* and to implement this title.

34 (c) A majority of the voting members of the board shall
35 constitute a quorum for the purpose of transacting any business of
36 the ~~authority~~ *council*. A recorded majority vote of the total voting
37 membership of the board is required on each action.

CHAPTER 5. POWERS AND DUTIES

~~Article 1. General Provisions~~

66725. The ~~authority~~ *council* may do all of the following:

(a) Apply for and receive grants from federal and state agencies.
(b) Solicit and accept gifts, fees, grants, and allocations from public and private entities.

(c) Receive and manage a dedicated revenue source.

(d) Deposit or invest moneys of the ~~authority~~ *council* in banks or financial institutions in the state in accordance with state law.

(e) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(f) Engage counsel and other professional services.

(g) Enter into and perform all necessary contracts.

(h) Enter into joint powers agreements pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(i) Use interim or temporary staff provided by ~~appropriate state agencies or~~ the Association of Bay Area Governments. A person who performs duties as interim or temporary staff shall not be considered an employee of the ~~authority~~ *council*.

66725.1. The ~~authority~~ *council* shall not acquire or own real property.

66725.2. All records prepared, owned, used, or retained by the ~~authority~~ *council* are public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

66725.3. *The council shall not apply for funding dedicated solely for planning for emergency response immediately after a disaster.*

~~Article 2. Grant Program~~

~~66725.5. (a) The authority may raise funds and award grants to public and private entities, including, but not limited to, owners or operators of public and private property within the San Francisco Bay area, for the purposes of maintaining and enhancing the region's resiliency following a disaster by reducing the potential~~

1 loss of life, property damage, or environmental degradation, and
2 accelerating economic recovery from those disasters.

3 (b) ~~In reviewing and assessing projects, the authority shall solicit~~
4 ~~input from the administrative committee convened pursuant to~~
5 ~~Section 66724.5. The authority shall give priority to projects that~~
6 ~~do either of the following:~~

7 (1) ~~To the greatest extent possible, address the highest priority~~
8 ~~mitigation strategies identified in the most recent multijurisdictional~~
9 ~~Local Hazard Mitigation Plan led by ABAG and adopted by the~~
10 ~~Federal Emergency Management Agency.~~

11 (2) ~~Address additional needs identified in the recovery plan.~~

12 (c) ~~Grants awarded pursuant to subdivision (a) may be used to~~
13 ~~support all phases of planning, construction, monitoring, operation,~~
14 ~~and maintenance for projects that are eligible pursuant to~~
15 ~~subdivision (b).~~

16 CHAPTER 6. FINANCIAL PROVISIONS

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18
19 66726. (a) The board shall provide for regular audits of the
20 ~~authority's~~ *council's* accounts and records and shall maintain
21 accounting records and shall report accounting transactions in
22 accordance with generally accepted accounting principles adopted
23 by the Government Accounting Standards Board of the Financial
24 Accounting Foundation for both public reporting purposes and for
25 reporting of activities to the Controller.

26 (b) The board shall provide for annual financial reports. The
27 board shall make copies of the annual financial reports available
28 to the public.

29 66726.5. ~~The authority~~ *council* shall be funded through gifts,
30 donations, grants, state or local bonds, ~~assessments~~, other
31 appropriate funding sources, and other types of financial assistance
32 from public and private sources. Nothing in this title shall be
33 construed to authorize the ~~authority~~ *council* to incur debt or raise
34 revenue by levying taxes, assessments, or fees.

35 CHAPTER 7. REPEAL

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38 66727. This title shall remain in effect only until January 1,
39 2030, and as of that date is repealed, unless a later enacted statute,
40 that is enacted before January 1, 2030, deletes or extends that date.

1 ~~SEC. 2.— No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~a local agency or school district has the authority to levy service~~
4 ~~charges, fees, or assessments sufficient to pay for the program or~~
5 ~~level of service mandated by this act, within the meaning of Section~~
6 ~~17556 of the Government Code.~~

7 *SEC. 2. No reimbursement is required by this act pursuant to*
8 *Section 6 of Article XIII B of the California Constitution because*
9 *the only costs that may be incurred by a local agency or school*
10 *district are the result of a program for which legislative authority*
11 *was requested by that local agency or school district, within the*
12 *meaning of Section 17556 of the Government Code and Section 6*
13 *of Article XIII B of the California Constitution.*